

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**HENRY J. ALLEN,**

**Plaintiff,**

**v.**

**McCLAIN EZ PACK OF ALABAMA, INC., )**

**et al., )**

**Defendants. )**

**CIVIL ACTION 03-0490-WS-M**

**ORDER**

By previous orders, this Court granted the plaintiff's motion for default judgment against defendant McClain EZ Pack of Alabama, Inc. ("McClain") and set this matter for a bench hearing on damages. (Docs. 59, 61). The hearing was scheduled for, and conducted on, May 23, 2005. (Doc. 62). After carefully considering the evidence presented at the hearing, the Court makes the following findings of fact:

1. The plaintiff experienced substantial emotional distress as a result of McClain's wrongful conduct and will require counseling. The sum of \$75,000.00 is an appropriate sum to compensate the plaintiff for his emotional distress proximately caused by the wrongful conduct of McClain and for the costs of counseling.

2. McClain acted with malice or reckless indifference to the plaintiff's federally protected rights and with knowledge that it may be acting in violation of federal law. The plaintiff has established by clear and convincing evidence that McClain's state-law wrongs were accomplished with malice, oppression and wantonness. The sum of \$150,000.00 is an appropriate sum to punish McClain for its conduct towards the plaintiff and to deter others from engaging in similar conduct.

Judgment shall be entered accordingly by separate order.

DONE and ORDERED this 31<sup>st</sup> day of May, 2005.

s/ WILLIAM H. STEELE  
UNITED STATES DISTRICT JUDGE